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THE ANDHRA PRADESH GAZETTE
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PART II - MISCELLANEOUS NOTIFICATIONSN OF INTEREST TO THE PUBLIC

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NOTIFICATIONS BY HEADS OF DEPARTMENTS Etc.,

**ANDHRA PRADESH STATE WAQF BOARD,
VIJAYAWADA.**

DEFECTIVE PROCEEDINGS OF Sri P.V.H.JAVID MIAH, S/o. LATE P.V.H. ABDUL RAZAK MIAH APPOINTED U/Sec. 42 OF WAQF ACT, 1995 AND A.P. GAZETTE No.12, Dt:20-03-1997 IN WHICH APPOINTMENT OF Sri AZEEMUDDIN BASHA AS MUTHAWALLY U/Sec. 63 OF WAQF ACT, 1995 NOTIFIED WITHOUT MENTIONING MANDATORY PERIOD OF MUTAWALLISHIP, ARE WITHDRAWN - ORDERS WERE ISSUED - Sri P.V.H.JAVID MIAH PREFERRED WRIT PETITION IN W.P.No.18767/2018 AGAINST WAQF BOARD AND ONE OTHER - CASE DISPOSED OF WITH A DIRECTION TO THE PETITIONER TO SUBMIT HIS EXPLANATION WITHIN (15) FIFTEEN DAYS AND DIRECTED THE RESPONDENT WAQF BOARD TO PASS AN ORDER WITHIN (4) FOUR WEEKS AFTER CONSIDERATION OF THE EXPLANATION.

- Read : 1. This office Proceedings of even No., 29-03-2007.
2. This office Proceedings of even No., 23-02-2017
3. Interim report of the Enquiry officer, APSWB., Dt: 08-05-2018
4. Orders of the Hon'ble Chairperson, Dt: 23-05-2018
5. Board's Resolution No.050/2018, Dt: 28-05-2018
6. Orders of the Hon'ble Chairperson, Dt: 30-05-2018.
7. This office proceedings of even No., Dt: 30-05-2018.
8. Disposal order of Hon'ble High Court dated 07-06-2018 in W.P.No. 18767/2018
9. Explanation of Sri. P.V.H.Javid Miah, Dated: 21-06-2018 as per orders in W.P.No.18767/2018.
10. Board Resolution No. 90/2018, Dt: 04-07-2018.

F.No.12/KNL/M/2007/Z-IV,-

1. The Waqf institution Mosque known as Chowk Masjid situated at Nandyal Town and Mandal. Kurnool District and its attached properties in SY No.2179 and extent of Ac.1.77 Cents of Nandyal under T.D No.4455, Sy.No.388 an extent of Ac.12 42 Cents and Sy.No.473 an extent of Ac.12.68 Cents of Moolasagaram H/o of Nandyal under T.D No.4456 are notified Waqf got published in the A.P. Gazette No.43-A, Part-II, Dated: 24-10-1963 at Sl. No.3402. A new Mosque known as Masjid-e-Lathufiya and Iqra School was constructed within Sy.No.2179 of Nandyal are a part and parcel of said notified Waqf institution area.
2. The Waqf Board had appointed three (3) Muthawallies by name (1) Sri P.V.H. Mohiuddin Basha (2) Sri P.V.H. Abdul Razzack Miah and (3) Sri P.V.H. Azeemuddin Basha U/s.63 of Waqf Act, 1995 in the place of the deceased notified Muthawalli Sri P.V.H. Abdul Lateef as per A.P Gazette No.12, Dt: 20-03-1997 without mentioning the specific period of the term of the above three Muthawallies though fixing of a specific period of Mutawalliship under the said provision of Sec.63 of the Waqf Act, 1995 is mandatory.
3. On 05-01-2007, Sri P.V.H. Mohiuddm Basha had expired and his legal heirs gave No Objection Certificate in favour of their Cousin Sri P.V.H. Javid Miah S/o. Sri P.V.H. Abdul Razzack Miah for succession to the office of the muthawalli. The Board instead of appointing Sri P.V.H. Javid Mian as Mutawalli Under Sec.63 of the Waqf Act, 1995, the Board has erroneously "appointed" him as Muthawalli under Sec.42 of the Waqf Act, in the ref. 1st read above in place of deceased notified Mutahwalli Sri P.V.H. Mohiuddin Basha. According to Sec.42 of the said Waqf Act, the successor to be appointed under hereditary, but not appointed in the vacancy caused. At the time of his appointment his father Sri P.V.H.A. Razzack Mian was holding the office of Mutawalli under hereditary. Whereas the appointment of Sri P.V.H Javid Mian is not at all hereditary and his appointment falls Under Sec.63 of the Waqf Act. .
4. In this course of action to rectify the defective proceedings, during the scrutiny of the relevant record, it has been noted that the above mentioned Muthawallies are not performing their legitimate duties bound to be performed by them under the provisions of Waqf Act, 1995 and moreover the Annual Budget and Accounts submitted by one of the Co-Muthawallies Sri P.V.H.Imran Hussain is found to be false, and therefore he is kept under suspension U/s.64(5) of waqf Act, 1995 by proceedings No.26/APSWB/KNL/Budget/2016-17/Towliath, dated:29-05-2018 as per Board's Resolution No.046/2018, Dated: 05-05-2018.
5. Apart from it, since the other proceedings of appointment of Muthawally bearing No.12/KNL/M/07/Z-IV, Dt: 29-03-2007 issued in favour of Sri P.V.H. Javid Miah (present petitioner in W.P.No 18767/2018) being defective, there is a need to rectify the mistake in the defective proceeding and thereby the Waqf Board, in its proceedings in the reference 7th read above, had withdrawn the said defective proceedings of the year 2007 and the A.P. Gazette Notification bearing No. 12, Dated: 20-03-1997 in which, one more muthawalli Sri P.V.H. Azeemuddin Basha's appointment U/s. 63 of the Waqf Act has been notified without mentioning specific period of his Muthawalliship which is mandatory as laid down under Sec. 63 of the Act.

6. Thus, the proceedings as well Gazette notification of both the aforesaid individuals have been withdrawn by issuing proceeding dated:30-05-2018 in the ref. 7th read above so as to rectify the mistake and issue revised rectified proceedings on the lines of the orders of Board's Resolution No. 050/2018, Dt: 28-05-18 in the ref. 5th read above.
7. Aggrieved by the above mentioned orders in Board's Proceedings Dt: 30-05-2018 in the reference 5th read above, Sri P.V.H. Javid Miah has approached the Hon'ble High Court by way of Writ Petition No:18767/2018. The Hon'ble High Court has disposed the Writ Petition vide order Dated: 07-06-2018, as follows:

"I have perused the proceedings. From the proceedings impugned in the writ petition, it is evident that Board is proposing to streamline appointment of Muttawalli for the subject institution either under Section 42 or under Section 63 of the Act. This Court does not wish to preclude such an exercise being undertaken by the Board. In fairness to the circumstances stated above, though not legally, in contention of the petitioner, as a matter of right he is entitled to notice, this Court is persuaded to treat the impugned notice as show cause notice by referring to simple circumstance that the abrupt discontinuation of Muttawalli after working for 10 years, does not suit the stand of Muttawalli of an institution. Therefore, the proceedings are directed to be treated as show cause notice and during the consideration of appointment of Muttawalli either under Section 42 or Section 63 of the Act, the proceedings are suspended; the petitioner is given 15 days time to submit both explanation and also a request for consideration of petitioner's claim as well for appointment of Muttawalli, the Board without fail 5 passes an order within four (04) weeks thereafter and communicate to all the concerned. Writ petition is disposed of as indicated above. No order as to costs. Miscellaneous petitions, if any, pending, shall stand closed."

8. Accordingly, the Petitioner Sri P.V.H. Javid Miah has submitted his explanation on 21-06-2018 that he was recognized as Muthawalli U/s. 42 of Waqf Act, 1995 under Hereditary in the place of deceased Muthawalli vide proceeding No:12/KNL/M/07/Z-IV, Dt: 29-03-2007 in the reference 1st read above and he requested to continue the same proceedings.
9. The aforesaid explanation of the individual and the entire record was placed along with the Agenda before the Board in its meeting held on 04.07.2018 After thorough examination of the matter and discussion, the Board has unanimously resolved the following decision vide its Resolution No.91/2018, dated 04.07.2018

"The reply dated: 21.06.2018 submitted by Sri P.V.H. Javid Miah, one of the Mutawalli of Chowk Mosque, Nandyal, in compliance to the orders of the Hon'ble High Court in W.P.No.18676/2018 Dated: 07.06.2018 is discussed in detail.

It is unanimously resolved to withdraw the defective Towliath proceedings Dated: 29.03.2007 issued Under Sec.42 of the Waqf Act. 1995 in favour of Sri P.V.H.Javid Miah and also to withdraw the Proceedings Dated: 21.01.1997 issued in favour Sri. P.V.H. Azeemuddin Basha appointing him as Mutawalli Under Sec.63 of the Waqf Act, 1995 without mentioning the period. The subsequent Gazette Notifications issued for the above proceedings are also to be withdrawn. The I.A.Waqfs, Sri D.Altaf Hussain is kept incharge of the subject institution

Further resolved to appoint Sri Saheb Khan, Executive Officer, of Waqf Board, as enquiry officer to enquire into the matter and submit his report for taking further action on the claim and eligibility of Sri P.V.H Javid Miah as Mutawalli. The Chief Executive Officer, to issue proceedings as resolved.”

10. Accordingly, in pursuance of the decision of the Board, the defective Towliath proceedings Dated: 29.03.2007 issued Under Sec.42 of the Waqf Act, 1995 in favour of Sri P.V.H.Javid Miah and the Proceedings Dated: 21 01.1997 issued in favour Sri. P.V.H.Azeemuddin Basha appointing him as Mutawalli Under sec.63 of the Waqf Act, 1995 without mentioning the period are hereby withdrawn with immediate effect. Subsequently, Sri D. Altaf Hussain, Inspector Auditor Waqfs, Kurnool District is kept incharge of the subject institution and its entire attached Waqf properties till further orders. He should assume the charge of both the above said individuals Sri. P.V.H. Javid Miah and Sri. P.V.H. Azeemuddin Basha immediately and report compliance.
11. Further, in compliance to the Resolution, Sri Saheb Khan, Executive Officer, of Waqf Board, is hereby appointed as enquiry officer U/s.71 of the Waqf Act, 1995, to enquire into the matter and submit his report for taking further action on the claim and eligibility of Sri P V H. Javid Miah as Mutawalli.

L. ABDUL KHADIR,
CHIEF EXECUTIVE OFFICER,
Andhra Pradesh State Waqf Board,
Vijayawada.

Date: 05-07-2018.

To

1. Sri P.V.H Javid Miah, S/o late P.V.H.A.Razzak Miah, Muthawalli, Chowk Masjid, Nandyal, Kurnool District.(through IA Waqfs, Kurnool District and return the duplicate copy with proper acknowledgment.)
2. Sri. P.V.H. Azeemuddin Basha. Muthawalli, Chowk Masjid, Nandyal, Kurnool Districts through IA Waqfs, Kurnool District and return the duplicate copy with proper acknowledgment.
- 3) Sri Saheb Khan, Enquiry Officer, Waqf Board, for necessary enquiry as resolved.
- 4) Sri D. Altaf Hussain, Inspector Auditor Waqfs, Kurnool District, for compliance.

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